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**IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN
AT JAIPUR BENCH**

S.B. CRIMINAL MISC. PETITION NO.368/99

Shyonath **Versus** State & Anr.

DATE OF ORDER :: 20/08/2007

HON'BLE MR. JUSTICE AJAY RASTOGI

Mr. Birisingh Sinsinwar, for petitioner

Mr. Arun Sharma, P.P.

Mr. Rahul Tiwari for Mr. R.K. Mathur, for
respondent

* * *

Instant petition is directed against the order dated 19th November, 1998 whereby learned Magistrate in exercise of his power u/ss.145 & 146 Cr.P.C. attached the disputed property and appointed Receiver after affording opportunity to the parties recorded his satisfaction that there is a possibility of breach of peace and since both are claiming possession, peace can be disturbed and accordingly, under the appropriate proceedings initially, attached the property and appointed Receiver therein - against which revision petition was filed that too has been dismissed on 9th March, 1999.

This court has gone through the order of learned Magistrate and so also of Court of Revision and both the courts have approved satisfaction which has been recorded about breach of peace. Since the parties are disputing their possession one on the basis of long possession and another on the basis of property being

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transferred to him under agreement to sale. The proceedings initiated u/ss.145 & 146 Cr.P.C. are of interim measure which neither decide the right title nor possession of parties and it can be considered only in the regular revenue suit.

This Court does not find any error committed by learned Magistrate under order impugned. However, it is made clear that it will be subject to final outcome of proceedings pending before Revenue Court and the order passed therein will decide the fate of the parties to the dispute and the order under challenge will be part of final decision/outcome of the revenue suit pending.

With the above observations, the misc. petition stands disposed of.

[AJAY RASTOGI], J.

FRBOHRA, JR. P. A.